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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,797	02/21/2002	Romulus Kimbro Brazzell	OP/4-31881A	9942
35928	7590	11/09/2004	EXAMINER	
GRAY CARY WARE FREDENRICH 1625 MASSACHUSETTS AVENUE, NW SUITE 300 WASHINGTON, DC 20036-2247			ANGELL, JON E	
			ART UNIT	PAPER NUMBER
			1635	

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

20051104

DATE MAILED:

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Commissioner for Patents

The amendment to the claims filed on 9/9/2004 does not comply with the requirements of 37 CFR 1.121(c) because applicants have improperly labelled the claims. Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states (in part):

(c) Claims: Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered)...

(4) When claim text shall not be presented; canceling a claim: (i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

It is noted that, with respect to the instant case, claims 7 and 44 are labelled "(Canceled)" but include the text of the claims, which is not compliant with 37 CFR 1.121 (c)(4). Furthermore, claims 2, 3, 29-32, 40, 41 are labelled "(previously amended)" which is not one of the acceptable identifiers indicated in 37 CFR 1.121 (c). Additionally, claim 2 also contains an amendment directing the deletion of a comma. It is noted that an amendment deleting the comma is not consistent with the improper label "(previously amended)" because it appears to be currently amended.

For the reasons indicated herein, the amendment to the claims filed 9/9/2004 are not in compliance with the requirements of 37 CFR 1.121(c), thus the amendment is considered non-responsive. Since the reply filed on 9/9/2004 appears to be bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Eric Angell, Ph.D. whose telephone number is 571-272-0756. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on 571-272-0760. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

J. Eric Angell

DAVE T. NGUYEN
PRIMARY EXAMINER